

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**CREIGHTON ST. JOSEPH REGIONAL  
HEALTHCARE, LLC, d/b/a ST.  
JOSEPH HOSPITAL - CREIGHTON  
UNIVERSITY MEDICAL CENTER,**

**Plaintiff,**

**V.**

**OMAHA CONSTRUCTION INDUSTRY  
HEALTH & WELFARE PLAN; JOINT  
BOARD OF TRUSTEES OF THE  
OMAHA CONSTRUCTION INDUSTRY  
HEALTH & WELFARE PLAN,**

**Defendants and Third-Party Plaintiffs,**

**V.**

**THE BENEFIT GROUP, INC.,**

**Third-Party Defendant.**

**CASE NO. 8:08CV238**

## ORDER

This matter is before the Court on the Report and Recommendation of Magistrate Judge F.A.Gossett recommending that this matter be remanded to the District Court for Douglas County, Nebraska, on the court's own motion, for lack of jurisdiction. (Filing No. 37). The recommendation is based on Judge Gossett's conclusion that the case was improperly removed to federal court by the Third-Party Defendant. The Report and Recommendation was filed on October 17, 2008.

A Statement of Objection to the Report and Recommendation, as allowed by 28 U.S.C. § 636(b)(1) and NECivR 72.3(a), has not been filed by any party. Having reviewed the record and having considered the Magistrate Judge's recommendation, *de novo*, I conclude that Judge Gossett's Report and Recommendation should be adopted, and the case should be remanded to the District Court for Douglas County, Nebraska.

Accordingly,

**IT IS ORDERED:**

1. The Report and Recommendation (Filing No. 37) is adopted in its entirety;
2. All pending motions (Filing Nos. 18 and 36) are denied as moot;
3. This matter is remanded to the District Court for Douglas County, Nebraska;  
and
4. The parties will pay their own costs and attorney fees.

Dated this 7<sup>th</sup> day of November, 2008.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge